UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/126,884	07/31/1998	MICHAEL C. BERTRAM	533/133	9408

26291 7590 11/09/2004	EXAMINER
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702	NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
2661	

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/126,884	BERTRAM ET AL.
	Examiner	Art Unit	
	Brian D Nguyen	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *the amendment filed 8/4/04*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-10 and 12-26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-10 and 12-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims 1-3, 5-10, and 12-26 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Slattery (6,246,701) in view of Gardner et al (6,327,275).

Regarding claim 1, Slattery discloses a method for processing a transport stream (TS1,

TS2, TS3) comprising a plurality of time slots for transporting therein respective programs

having a common time base indicated by periodically inserted time stamps comprising

modifying packets associated with a desired time slot of a received transport stream to produce

an output transport stream and transmitting the output transport stream, wherein the transmitted

output transport stream includes respective modified programs having the common time base

indicated by the periodically inserted time stamps provided by the received transport stream (see

abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50 & 62-65; col. 6, lines 11-16; col. 9, lines

26-30; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30). Slattery does

not specifically disclose the modified packet uses a matching time stamp of the received

transport stream. However, Gardner discloses the modified packet uses a matching time stamp of

the received transport stream (see col. 1, lines 7-14; col. 4, lines 30-59; and col. 5, lines 5-13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to a use a matching time stamp of the received transport stream as taught by

Gardner in the system of Slattery with the motivation being to maintain the timing of the packets

in the received transport stream.

Regarding claims 2-3 and 5-6, Slattery further discloses examining and replacing NULL

packets/programs with replacement packets/programs by inserting the replacement

packets/programs into an output transport stream (see abstract; Fig. 1; col. 3, lines 12-14; col. 5,

lines 48-50; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30).

Regarding claims 7-10 and 26, Slattery discloses an apparatus for processing a received

transport stream comprising N time slots for transporting therein N respective programs having a

common time base indicated by periodically inserted time stamps comprising a transport clock

source; N transport encoders; a multiplexer for receiving and modifying packets associated with

a desired time slot of one or more transport encoded program streams. The multiplexer

producing a processed transport stream, wherein the processed transport stream includes

respective modified programs having the common time base indicated by the periodically

inserted time stamps provided by the received transport stream and a file server coupled between

the multiplexer and the N transport encoders (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines

48-50; col. 9, lines 26-30; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; col. 29, line 41-col.

30, line 7; and col. 40, lines 28-30). Slattery implicitly discloses a frequency divider to divide a

timing signal CLK from the transport clock source into N timing signals so as the bit rate of the

slotted transport stream will be equal to the sum of the bit rates of the N slots. Slattery does not

specifically disclose the modified packet uses a matching time stamp of the received transport

stream. However, Gardner discloses the modified packet uses a matching time stamp of the

received transport stream (see col. 1, lines 7-14; col. 4, lines 30-59; and col. 5, lines 5-13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to a use a matching time stamp of the received transport stream as taught by

Gardner in the system of Slattery with the motivation being to maintain the timing of the packets

in the received transport stream.

Regarding claim 12, Slattery discloses an apparatus for processing a received transport

stream comprising a plurality of time slots for transporting therein a respective plurality of

programs having a common time base indicated by periodically inserted time stamps comprising

a transport clock source, a plurality of encoder for receiving and encoding program streams to

produce a respective encoded program stream, each of the encoded program streams being

coupled to a switch via a respective buffer memory, the switch selectively coupling program

stream transport packets from the buffer memories for modifying packets associated with a

desired time slot to produce a slotted transport stream, wherein the slotted transport stream

includes respective modified programs having the common time base indicated by the

periodically inserted time stamps provided by the received transport stream (see abstract; Fig. 1;

col. 3, lines 12-14; col. 5, lines 48-50; col. 9, lines 26-30; col. 9, line 47-col. 10, line 7; col. 10,

lines 27-44; col. 29, line 41-col. 30, line 7; and col. 40, lines 28-30). Slattery implicitly discloses

a frequency divider to divide a timing signal CLK from the transport clock source into N timing

signals so as the bit rate of the slotted transport stream will be equal to the sum of the bit rates of

the N slots. Slattery does not specifically disclose the modified packet uses a matching time

stamp of the received transport stream. However, Gardner discloses the modified packet uses a

matching time stamp of the received transport stream (see col. 1, lines 7-14; col. 4, lines 30-59;

and col. 5, lines 5-13). Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to a use a matching time stamp of the received transport

stream as taught by Gardner in the system of Slattery with the motivation being to maintain the

timing of the packets in the received transport stream.

Regarding claims 13, 16-17, and 21-22, Slattery further discloses a file server (40) for

storing encoded program streams and selectively providing at least one encoded program stream

to the switch (see Figure 1).

Regarding claims 14-15, 18-20, and 23-25, Slattery further discloses NULL transport

packets, adding and deleting NULL transport packets and program packets (see elements 50 &

60 of Figure 1; col. 4, lines 62-67; col. 5, lines 48-50; and col. 10, lines 32-40).

Response to Arguments

'3.   Applicant's arguments filed 8/4/04 have been fully considered but they are not

persuasive.

The applicant argued that neither references teach or suggest "said slotted transport

stream including respective modified programs having said common time base indicated by said

periodically inserted time stamp provided by said received transport stream, <u>wherein a modified</u>

<u>packet uses matching time stamp of said received transport stream.</u>" This argument is not

persuasive because Slattery does teach a modified packet uses matching time stamp. In col. 3,

lines 22-42, Slattery teaches that time stamps of the system time clock, called program clock

reference or "PCRs" are inserted into the payloads of selected transport packets". See common

time base in col. 2, line 9-11. See col. 5, lines 48-49 where Slattery teaches insert null packet

into the transport packet time slot to maintain the bit rate. See col. 40, lines 31-33 where Slattery

teaches replacing null packets with other to-be-remultiplexed transport packet data. Although

Slattery discloses a common time base for synchronization, Slattery does not explicitly show the

relative position of packets. Gardner discloses the time stamp (PCR) in col. 1, lines 49-57 and in

col. 4, lines 30-48, Gardner shows the relative position of packets, for example packet "B" in

lines 34-35 are replaced by null packet "- -". Therefore, both references discuss of matching

time stamp. In addition, the application does not use the term **matching** time stamp, the only

"time stamp" found in the application is in page 6, line 28.

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Brian D Nguyen whose telephone number is (571) 272-3084.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/03/04

BRIAN NGUYEN
PRIMARY EXAMINER